

## **REMARKS**

### **1.     Introduction**

In the Office Action mailed July 19, 2010, the Examiner rejected claims 1-3, 7-18, and 22-30 under 35 U.S.C. § 102(b) as being anticipated by Sidley, U.S. Patent No. 4,926,327 (“Sidley”), and the Examiner rejected claims 4-6 and 19-21 under 35 U.S.C. § 103(a) as being unpatentable over Sidley in view of Alcorn et al., U.S. Patent No. 6,104,815 (“Alcorn”).

The Examiner also rejected claims 1-6 and 16-21 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4-6, 10, 11, and 13-15 of U.S. Patent No. 7,699,702 (“the ‘702 patent”).

The Examiner further rejected claims 16-30 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The Examiner objected to claims 2-14 and 16-30 because of informalities. In addition, the Examiner objected to the Abstract as not being presented on a separate sheet.

In response, Applicant has amended claims 1-30.

For the reasons set forth below, Applicant requests reconsideration and allowance of the claims, as amended herein.

### **2.     Response to rejections under § 101**

The Examiner has alleged that claims 16-30 do not qualify as a statutory process under § 101. In particular, the Examiner has taken the position that in order for a method claim to qualify as a statutory process under § 101, the claim “must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.” *See* Office Action, p. 3.

Applicant submits that the Examiner's position is incorrect in view of the Supreme Court's recent decision in *Bilski v. Kappos*. Nonetheless, in order to expedite prosecution, Applicant has amended claim 16 to recite that the "deriving" and "monitoring" steps are accomplished using a "collusion detection server." As a result, the method of claim 16 (and dependent claims 17-30) is tied to a particular apparatus and is clearly statutory, even under the Examiner's incorrect position.

Accordingly, Applicant respectfully requests that the rejections of claims 16-30 under § 101 be withdrawn.

**3. Response to Double-Patenting Rejection**

The Examiner has rejected claims 1-6 and 16-21 on the ground of nonstatutory obviousness-type double patenting over the '702 patent. In response, Applicant has submitted a Terminal Disclaimer, which Applicant submits is sufficient to overcome the nonstatutory double-patenting rejection. *See* MPEP § 804.02. Accordingly, Applicant respectfully requests that the double-patenting rejection of claims 1-6 and 16-21 be withdrawn.

**4. Response to rejections under § 102**

Of the claims currently pending, claims 1 and 16 are independent. The Examiner has rejected claims 1 and 16 as being anticipated by Sidley. Claims 1 and 16 recite a "primary statistic" that is derived for each player, with claim 1 reciting "a ranking facility operable to derive a primary statistic for each player" and claim 16 reciting "deriving a primary statistic for each player." With regard to the function of deriving of a "primary statistic," the Examiner has cited col. 43, lines 19-43 of Sidley. *See* Office Action, p. 5.

This section of Sidley describes a matrix 250 with elements corresponding to pairs of players and a procedure for altering the elements of matrix 250 after each bet event in which raises occur. The amount by which an element of matrix is altered is based on raise amounts, call amounts, and the number of players in the pot during the bet event. *See* col. 43, lines 19-32. In contrast, claims 1 and 16 specify that the “primary statistic” of a player is derived as a function of a total number of turns played by the player and the *outcomes* of the wagers made by the player in these turns of the game. The raise amounts and call amounts used to alter the elements in matrix 250 correspond to amounts wagered, not to *outcomes* of wagers. Thus, the elements of matrix 250 in Sidley are not “primary statistics” because they are not based on *outcomes* of wagers.

In addition, claims 1 and 16 recite the function of “monitoring the primary statistic of each player and generating an output when the primary statistic of any player changes by more than a predetermined amount, the output being an indicator of possible collusion by that player.” For this function, the Examiner cited to col. 43, lines 32-43. *See* Office Action, pp. 5-6. In this section, Sidley teaches that “suspect” players are identified as the pairs of players with the highest amounts in matrix 250. *See* col. 43, lines 38-41. But identifying the highest amounts in matrix 250 does not correspond to determining when a player’s primary statistic “changes by more than a predetermined amount.” Thus, even if the elements of matrix 250 were to be considered “primary statistics,” Sidley would still not disclose the “monitoring” function recited in claims 1 and 16.

Nonetheless, in order to expedite prosecution, Applicant has amended claims 1 and 16 to recite “wherein the primary statistic is a ratio of a cumulative outcome of the player’s wagers and the total number of turns of the game played by the player.” This ratio is described in

Applicant's specification at page 20, line 30 – page 21, line 5. Applicant submits that Sidley neither discloses nor suggests the ratio recited in amended claims 1 and 16.

Accordingly, Applicant submits that claims 1 and 16, as amended, are allowable over Sidley for at least the foregoing reasons. Applicant further submits that claims 2-15 and 17-30 are allowable for at least the reason that they depend from allowable claims.

5. **Conclusion**

Applicant submits that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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